



STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: February 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011657

[REDACTED]

Dear [REDACTED],

On January 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 25, 2016 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the NY State of Health number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011657

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that you were not eligible to receive financial assistance and only eligible to purchase a qualified health plan (QHP) at full cost as of August 25, 2016?

Procedural History

On August 24, 2016, your NYSOH account was updated. NYSOH rendered a preliminary eligibility determination that you were not eligible for financial assistance and could purchase a QHP at full cost.

Also on August 24, 2016, you spoke with a representative from NYSOH's Account Review Unit and requested an appeal insofar as being determined not eligible for any financial assistance.

On August 25, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a QHP at full cost through NYSOH effective as of October 1, 2016. The notice also stated, in relevant part, that you did not qualify for to enroll in Medicaid, the Essential Plan, or to receive any tax credit because the income reported was over the allowable income limit.

On October 6, 2016, NYSOH issued an enrollment notice confirming that as of October 5, 2016, you were enrolled in a QHP with an enrollment start date of November 1, 2016.

On January 12, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) According to your NYSOH account and your testimony, you expect to file your 2016 federal income tax return, with a tax filing status of single, and do not expect to claim any dependents on that return.
- 2) According to your NYSOH account and testimony, you are applying for health insurance for yourself.
- 3) According to your August 24, 2016 application, you attested to an annual household income of \$50,050.00. You expected to receive \$39,000.00 in earned income and \$11,050.00 in unemployment insurance benefits (UIB).
- 4) You testified that you were employed at [REDACTED] through April 28, 2016 and received severance payments until about the third week of June 2016.
- 5) According to your August 24, 2016 application, you attested to a current monthly income of \$1,700.00.
- 6) On November 30, 2016, a printout of your Official Record of Benefit Payment History from New York State's Department of Labor was uploaded to your account ([REDACTED]). The documentation indicates that you were issued:
 - (a) three payments of \$425.00 on the release date of 8/8/2016;
 - (b) \$425.00 on August 11, 2016;
 - (c) \$425.00 on August 18, 2016;
 - (d) \$425.00 on August 25, 2016.
- 7) According to your NYSOH account, you reside in [REDACTED] County, New York.
- 8) According to your NYSOH account and testimony, you enrolled in a QHP through NYSOH effective November 1, 2016.
- 9) You testified that you seeking to be reimbursed for the health insurance premiums and out-of-pocket expenses, if found eligible for Medicaid.

10) You testified that you are concerned about being penalized on your 2016 federal income tax return because of the lapse in health insurance.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Federal Register 3236, 3237).

Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Federal Register 3236, 3237).

Medicaid:

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

Medicaid can be provided through the Marketplace to adults who: (1) are age 19 or older and under age 65; (2) are not pregnant; (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act; (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part; and (5) have a household modified adjusted gross income that is at or below 138% of the federal poverty for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Fed. Reg. 4036).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were not eligible for financial assistance as of August 25, 2016.

You expect to file your 2016 federal income tax return with the tax status of single and expect to claim no dependents on that tax return. Therefore, you are in a one-person tax household.

The application that was submitted on August 24, 2016 listed an annual household income of \$50,050.00, and the eligibility determination relied upon that attestation.

An annual income of \$50,050.00 is 425.23% of the 2015 FPL for a one-person household. At 425.23% of the FPL, NYSOH properly determined that your income exceeded 400% of the FPL, and that you were not eligible for APTC based on the information you provided.

Secondly, a one-person household may qualify to enroll in an Essential Plan if their annual household income is below \$23,540.00, which is 200% of the 2015 FPL.

Again, you attested to an annual household income of \$50,050.00. An annual household income of \$50,050.00 exceeds the \$23,540.00 income threshold to be eligible to enroll in the Essential Plan.

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Medicaid can be provided through the NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size.

On the date of your August 24, 2016 application, the FPL was \$11,880.00 for a one-person household. Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. In order to be eligible for Medicaid, a household of one must not exceed a monthly income limit of (\$16,395.00/12) \$1,367.00.

On your August 24, 2016 application, you attested to a current monthly income of \$1,700.00. Based on your attestation, NYSOH properly determined your current monthly income exceeded the income threshold for Medicaid. Furthermore, on November 30, 2016, a printout of your Official Record of Benefit Payment History from New York State's Department of Labor was submitted to NYSOH. The documentation supports that you were issued (\$425.00 X 6) \$2,550.00 in UIB for August 2016.

Therefore, you were not eligible to receive financial assistance through NYSOH as of August 25, 2016.

During the hearing, you testified that you were concerned about receiving a tax penalty as a result of being without coverage.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2016 if you didn't have health coverage while you were waiting for an appeal decision about coverage eligibility or savings and your appeal was eventually successful.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

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Decision

The August 25, 2016, eligibility determination is AFFIRMED.

Effective Date of this Decision: February 10, 2017

How this Decision Affects Your Eligibility

You were not eligible to receive financial assistance through NYSOH as of August 25, 2016.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The August 25, 2016, eligibility determination is AFFIRMED.

You were not eligible to receive financial assistance through NYSOH as of August 25, 2016.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

